

Honorable Chief Judge Thomas O. Rice

John Ray Nelson, WSBA #16393
Adam J. Chambers, WSBA #46631
FOSTER PEPPER PLLC
618 West Riverside Avenue, Suite 300
Spokane, WA 99201-5102
Telephone: (509) 777-1600
Facsimile: (509) 777-1616
Email: john.nelson@foster.com
adam.chambers@foster.com

Attorneys for Defendant

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
AT SPOKANE

GERALD RUSSELL,

Plaintiff,

v.

CAPITAL RECOVERY
CORPORATION, DBA GEORGIA
CAPITAL RECOVERY
CORPORATION, a Georgia corporation,
Defendant.

No. 2:17-cv-00404-TOR

DEFENDANT'S ANSWER TO
PLAINTIFF'S COMPLAINT
FOR INJUNCTIVE RELIEF
FOR VIOLATIONS OF THE
CONSUMER PROTECTION
ACT AND THE FAIR DEBT
COLLECTION PRACTICES
ACT, *INTER ALIA*, AND
AFFIRMATIVE DEFENSES

Defendant, Capital Recovery Corporation, dba Georgia Capital Recovery
Corporation ("CRC"), by and through its counsel, John Ray Nelson, Adam J.
Chambers, and Foster Pepper PLLC, answers the allegations contained in the
Plaintiff's Complaint for Injunctive Relief for Violations of the Consumer

DEFENDANT'S ANSWER TO PLAINTIFF'S
COMPLAINT AND AFFIRMATIVE DEFENSES - 1
Case No. 2:17-cv-00404-TOR

FOSTER PEPPER PLLC
618 W. RIVERSIDE, SUITE 300
SPOKANE, WASHINGTON 99201-5102
PHONE (509) 777-1600 FAX (509) 777-1616

1 Protection Act and the Fair Debt Collection Practices Act, *Inter Alia* (“Complaint”)
2 as follows:

3
4 **I. STATEMENT OF THE CASE**

5 CRC admits only that this is an action for injunctive relief but denies the
6 remaining averments contained in this paragraph.

7
8 **II. PARTIES**

9 2.1 CRC lacks knowledge or information sufficient to form a belief as to
10 the truth of said allegation and, therefore, denies the same.

11 2.2 CRC lacks knowledge or information sufficient to form a belief as to
12 the truth of said allegation and, therefore, denies the same.

13 2.3 This paragraph sets forth legal conclusions and questions of law to
14 which no response is required.

15 2.4 CRC denies the averments of this paragraph as they apply to the
16 operation of CRC’s extended business services at issue in this action.

17 2.5 This paragraph sets forth legal conclusions and questions of law to
18 which no response is required.

19 2.6 CRC denies the averments of this paragraph as they apply to the
20 operation of CRC’s extended business services at issue in this action.

21 2.7 Deny.
22
23
24
25
26

1 2.8 Deny.

2 **III. JURISDICTION AND VENUE**

3 3.1 Deny.

4 3.2 Deny.

5 **IV. FACTS**

6 4.1 CRC lacks knowledge or information sufficient to form a belief as to
7
8 the truth of said allegation and, therefore, denies the same.

9 4.2 CRC lacks knowledge or information sufficient to form a belief as to
10
11 the truth of said allegation and, therefore, denies the same.

12 4.3 CRC lacks knowledge or information sufficient to form a belief as to
13
14 the truth of said allegation and, therefore, denies the same.

15 4.4 CRC lacks knowledge or information sufficient to form a belief as to
16
17 the truth of said allegation and, therefore, denies the same.

18 4.5 CRC lacks knowledge or information sufficient to form a belief as to
19
20 the truth of said allegation and, therefore, denies the same.

21 4.6 CRC lacks knowledge or information sufficient to form a belief as to
22
23 the truth of said allegation and, therefore, denies the same.

24 4.7 CRC lacks knowledge or information sufficient to form a belief as to
25
26 the truth of said allegation and, therefore, denies the same.

1 4.8 CRC lacks knowledge or information sufficient to form a belief as to
2 the truth of said allegation and, therefore, denies the same.

3 4.9 CRC denies that it is a debt collector or a collection agency as those
4 terms might be applied to the operation of CRC's extended business office services
5 at issue in this action, or with regard to Plaintiff.

6 4.10 Deny.

7 4.11 Deny.

8 4.12 The document referred to in this paragraph speaks for itself and no
9 response is required. CRC denies that the document is a debt collection letter.

10 4.13 The document referred to in this paragraph speaks for itself and no
11 response is required. CRC lacks knowledge or information sufficient to form a
12 belief as to the truth of when Plaintiff's insurance company paid the bill and,
13 therefore, denies the same. CRC denies that the document is a debt collection
14 letter.

15 4.14 CRC lacks knowledge or information sufficient to form a belief as to
16 the truth of said allegation and, therefore, denies the same. CRC denies that the
17 document is a debt collection letter.

18 4.15 Deny.

19 4.16 Deny.

1 4.17 Deny.

2 4.18 The document referred to in this paragraph speaks for itself and no
3 response is required. CRC denies that the document is a debt collection letter.
4

5 4.19 Admit.

6 4.20 Deny.

7 4.21 Deny.

8 4.22 Deny.

9 4.23 Deny.

10 4.24 The document referred to in this paragraph speaks for itself and no
11 response is required.
12

13 4.25 The document referred to in this paragraph speaks for itself and no
14 response is required.
15

16 4.26 This paragraph sets forth legal conclusions and questions of law to
17 which no response is required.
18

19 4.27 Admit only that an employee named Megan works for Capital
20 Recovery. The remaining averments contained in this paragraph are denied.
21

22 4.28 Deny.

23 4.29 Deny.

24 4.30 Deny.

1 4.31 Deny.

2 4.32 Deny.

3 4.33 Deny.

4 4.34 Deny.

5 4.35 This paragraph sets forth legal conclusions and questions of law to
6
7 which no response is required.
8

9 4.36 This paragraph sets forth legal conclusions and questions of law to
10
11 which no response is required.

12 4.37 This paragraph sets forth legal conclusions and questions of law to
13
14 which no response is required.

15 4.38 Deny.

16 4.39 Deny.

17 4.40 Deny.

18 4.41 Deny.

19 4.42 Deny.

20 4.43 Deny.

21 4.44 Deny.

22 4.45 Deny.

23 4.46 Deny.

1 4.47 Deny.

2 4.48 Deny.

3 4.49 Deny.

4 4.50 Deny.

5 4.51 Deny.

6 4.52 Deny.

7 4.53 Deny.

8
9
10 **V. FAIR DEBT COLLECTION PRACTICES ACT VIOLATION**

11 5.1 CRC incorporates herein its responses set forth above.

12 5.2 This paragraph sets forth legal conclusions and questions of law to
13 which no response is required.

14 5.3 This paragraph sets forth legal conclusions and questions of law to
15 which no response is required.

16 5.4 This paragraph sets forth legal conclusions and questions of law to
17 which no response is required.

18 5.5 This paragraph sets forth legal conclusions and questions of law to
19 which no response is required.

20 5.6 This paragraph sets forth legal conclusions and questions of law to
21 which no response is required.

1 5.7 This paragraph sets forth legal conclusions and questions of law to
2 which no response is required.

3
4 **VI. FIRST CAUSE OF ACTION**

5 Fair Debt Collection Practices Act Violation

6 6.1 CRC incorporates herein its responses set forth above.

7
8 6.2 This paragraph sets forth legal conclusions and questions of law to
9 which no response is required.

10 6.3 This paragraph sets forth legal conclusions and questions of law to
11 which no response is required.

12
13 6.4 Deny.

14 6.5 Deny Plaintiff has incurred any damages as a result of CRC's conduct
15 or the averments of Plaintiff's complaint. CRC denies any liability.

16
17 6.6 Deny Plaintiff has incurred any damages as a result of CRC's conduct
18 or the averments of Plaintiff's complaint. CRC denies any liability.

19
20 6.7 Deny Plaintiff has incurred any damages as a result of CRC's conduct
21 or the averments of Plaintiff's complaint. CRC denies any liability.

22 6.8 Deny.

23 6.9 Deny.

1 **VII. SECOND CAUSE OF ACTION**

2 **(Per Se Consumer Protection Act – State Collection Agency Act Violation)**

3 7.1 CRC incorporates herein its responses set forth above.

4 7.2 This paragraph sets forth legal conclusions and questions of law to
5 which no response is required.

6 7.3 This paragraph sets forth legal conclusions and questions of law to
7 which no response is required.

8 7.4 This paragraph sets forth legal conclusions and questions of law to
9 which no response is required.

10 7.5 This paragraph sets forth legal conclusions and questions of law to
11 which no response is required.

12 7.6 This paragraph sets forth legal conclusions and questions of law to
13 which no response is required.

14 7.7 Deny.

15 7.8 Deny Plaintiff has incurred any damages as a result of CRC's conduct
16 or the averments of Plaintiff's complaint. CRC denies any liability.

17 7.9 Deny Plaintiff has incurred any damages as a result of CRC's conduct
18 or the averments of Plaintiff's complaint. CRC denies any liability.

19 7.10 Deny.

1 7.11 This paragraph sets forth legal conclusions and questions of law to
2 which no response is required.

3
4 **VIII. THIRD CAUSE OF ACTION**

5 8.1 CRC incorporates herein its responses set forth above.

6 8.2 This paragraph sets forth legal conclusions and questions of law to
7 which no response is required.

8
9 8.3 This paragraph sets forth legal conclusions and questions of law to
10 which no response is required.

11
12 8.4 This paragraph sets forth legal conclusions and questions of law to
13 which no response is required.

14 8.5 This paragraph sets forth legal conclusions and questions of law to
15 which no response is required.

16
17 8.6 This paragraph sets forth legal conclusions and questions of law to
18 which no response is required.

19
20 8.7 This paragraph sets forth legal conclusions and questions of law to
21 which no response is required.

22 8.8 This paragraph sets forth legal conclusions and questions of law to
23 which no response is required.
24
25
26

1 8.9 This paragraph sets forth legal conclusions and questions of law to
2 which no response is required.

3
4 8.10 Deny.

5 8.11 This paragraph sets forth legal conclusions and questions of law to
6 which no response is required.

7
8 8.12 This paragraph sets forth legal conclusions and questions of law to
9 which no response is required.

10 8.13 Deny Plaintiff has incurred any damages as a result of CRC's conduct
11 or the averments of Plaintiff's complaint. CRC denies any liability.

12
13 8.14 Deny Plaintiff has incurred any damages as a result of CRC's conduct
14 or the averments of Plaintiff's complaint. CRC denies any liability.

15
16 8.15 Deny.

17 8.16 This paragraph sets forth legal conclusions and questions of law to
18 which no response is required.

19
20 **IX. AFFIRMATIVE AND OTHER DEFENSES**

21 Without conceding it bears the burden of proof as to any of these defenses,
22 any unlawful intent, and/or any prerequisite condition, CRC alleges the following
23 affirmative defenses:
24
25
26

1 1. Plaintiff's claims, in whole or in part, are barred by the statute of
2 limitations.

3
4 2. Plaintiff's claims, in whole or in part, are barred by estoppel, waiver,
5 and/or laches.

6 3. Plaintiff has failed, in whole or in part, to mitigate his damages.

7
8 4. Plaintiff lacks standing.

9 5. Lack of subject matter jurisdiction.

10 6. Claim preclusion.

11 7. Issue preclusion.

12 8. Lack of injury.

13 9. Bona fide error. Any violation of law, which is specifically denied,
14 was not intentional and resulted from a bona fide error notwithstanding the
15 maintenance of procedures reasonably adapted to avoid any such error.
16

17 10. Good faith reliance. At all pertinent times, CRC acted in good faith
18 reliance on the information provided to it by other entities.
19

20 11. Good faith. CRC acted in good faith at all times.

21 12. No-fault statements. CRC did not make any false or misleading
22 representations to Plaintiff or anyone else.
23
24
25
26

1 13. Lack of public interest. CRC's actions were not injurious to the
2 public, were motivated by legitimate business concerns, and were reasonable in
3 relation to the development and preservation of its business interests.
4

5 14. CRC reserves the right to assert additional affirmative defenses as
6 discovery progresses.
7

8 **PRAYER FOR RELIEF**

9 WHEREFORE, having fully answered Plaintiff's Complaint, CRC prays for
10 the following relief:
11

12 1. For judgment in its favor against the Complaint and all claims therein,
13 and
14

15 2. For an award of money damages on Plaintiff's claims for breach of
16 the Consumer Protection Act and the Fair Debt Collection Practices Act, plus pre-
17 and post-judgment interest thereon, and
18

19 3. For an award of CRC's reasonable attorneys' fees in defense of
20 Plaintiff's claims, and
21

22 4. For such other and further relief as the Court deems just, at law and in
23 equity.
24
25
26

1 DATED this 8th day of December, 2017.
2

3 By: s/ John Ray Nelson

4 John Ray Nelson, WSBA #16393

5 Adam J. Chambers, WSBA #46631

6 FOSTER PEPPER PLLC

618 West Riverside Avenue, Suite 300

Spokane, WA 99201-5102

Telephone: (509) 777-1600

Facsimile: (509) 777-1616

Email: john.nelson@foster.com

adam.chambers@foster.com

Attorneys for Defendant Capital Recovery
Corporation

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on December 8, 2017, the above document was
3 electronically filed with the Clerk of the Court using the CM/ECF System, which
4 will send notification of such filing to the registered CM/ECF participants in this
5 action, as follows:

6 Robert Wayne Mitchell - bobmitchelllaw@yahoo.com

7 And I further certify that I served non-ECF participants as follows: N/A.
8

9 EXECUTED at Spokane, Washington, this 8th day of December, 2017.
10

11 s/ John Ray Nelson

12 John Ray Nelson, WSBA #16393

13 Adam J. Chambers, WSBA #46631

14 FOSTER PEPPER PLLC

15 618 West Riverside Avenue, Suite 300

16 Spokane, WA 99201-5102

17 Telephone: (509) 777-1600

18 Facsimile: (509) 777-1616

19 Email: john.nelson@foster.com

20 adam.chambers@foster.com

21 Attorneys for Defendant Capital Recovery
22 Corporation
23
24
25
26